REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

***

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**SB-17-CRM-0498 to 0506** For: Violation of Section 7 of RA 3019
-versus-	
EDWARD SOLON HAGEDORN, Accused.	**SB-17-CRM-0507 to 0515** For: Violation of Section 8 of RA 6713
	SB-17-CRM-0516 to 0524 For: Perjury
	Present Lagos, J., Chairperson Cruz,* Mendoza –Arcega, JJ.
	Promulgated: July 19, 2017

x---x

RESOLUTION

MENDOZA-ARCEGA, J.:

This resolves the *Urgent Omnibus Motion*[2] filed by the accused, Edward Solon Hagedorn, on 25 April 2017 for the quashal and outright dismissal of the Informations filed against him; and the *Comment/Opposition to the Urgent Omnibus Motion*[3] filed by the prosecution on 9 May 2017.

---

* Sitting as Special member per Administrative Order No. 025-2017 dated February 1, 2017
[2] Records, p. 207 to 217.
[3] Ibid, p. 231 to 238.

On 7 March 2017, several Informations[4] were filed before this court against the accused for nine (9) counts of violation of Section 7 of RA 3019[5], nine (9) counts of violation of Section 8 of RA 6713[6], and nine (9) counts of Perjury[7] as defined by Article 183 of the Revised Penal Code (RPC). These charges were based on a complaint[8] filed by Berteni C. Causing on 23 October 2013 for acts and omissions allegedly committed from 2005 to 2013 to which the Office of the Ombudsman found probable cause sufficient to indict the accused.

In essence, the charges against the accused under SB-17-CRM-0498 to 0506 cover violations under Section 7 of RA 3019 for his failure to truthfully and accurately declare in his annual Statement of Assets, Liabilities and Net Worth (SALN) for the years 2004 to 2012, the real properties, motor vehicles and corporate interests that he in fact owns, by omitting to declare such properties[9]. SB-17-CRM-0507 to 0515 cover the charges against the accused for violations under Section 8 of RA 6713 but the allegations under the said Informations were substantially the same as those alleged in SB-17-CRM-0498 to 0506. Lastly, the accused was indicted for Perjury in the Informations under SB-17-CRM-0516 to 0524 for making willful and deliberate assertion of a falsehood in a sworn statement required under Section 7 of RA 3019 and Section 8 of RA 6713.

Accused Hagedorn anchors his motion for the dismissal of all the Informations on the following grounds:

1. The facts charged do not constitute an offense pursuant to Paragraph 3, Section A, Rule 117 of the Rules on Criminal Procedure;

2. The criminal action or liability has been extinguished pursuant to Paragraph 3, Section G, Rule 117 of the Rules on Criminal Procedure;

3. The unjustified delay in the filing of the Information against him constituting the inordinate delay contemplated by law and jurisprudence as denial of accused's constitutional right to due process and right to speedy trial;

4. The cases are duplicitous and only one set of Information should remain.[10]

---

[4] SB 17 CRM 0498 to 0524.
[5] Otherwise known as the Anti-Graft and Corrupt Practices Act.
[6] Otherwise known as the Code of Conduct and Ethical Standards of Public Officials and Employees.
[7] As defined by Article 183 of the Revised Penal Code.
[8] Records, p. 63 to 149.
[9] As enumerated in the Records, p. 1 to 6.
[10] Records, p 207.

The Court shall now proceed to discuss the merits of accused's arguments.

1. The facts charge do not constitute an offense

The accused argues that there was no allegation that (1) the SALN was under oath, (2) that the SALN was subscribed before competent officers, and (3) there was no allegation of all the elements of each crime charged.[11]

The prosecution in its Comment/Opposition argued that it is unnecessary to order the quashal of the Informations if it is based on the ground that the facts charged do not constitute an offense. The prosecution shall be given by the court an opportunity to correct the defect by amendment pursuant to Section 4 of Rule 117of the Rules of Court. In explaining this rule, the Supreme Court held that it is hardly necessary to order the dismissal of the original Information and then direct the filing of a new one charging the proper offense. The reason for this is obvious. The prosecution did not commit a mistake in charging the proper offense; rather, it merely failed to file an Information sufficient to charge the offense it intended to charge.[12] The prosecution asserts the ruling in *Felicisimo F. Lazarte, Jr. vs. Sandiganbayan*[13] that the fundamental test in reflecting on the viability of a motion to quash on the ground that the facts charged do not constitute an offense is whether or not the facts asseverated, if hypothetically admitted, would establish the essential elements of the crime defined by law.

We hold that the first ground cannot warrant the dismissal of the Informations. A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense; and the place wherein the offense was committed.[14] Here, the requirements under the aforementioned rule have been complied with. The accused's contention that there was no allegation of all the elements of each crime charged is misplaced.

As properly raised by the accused, Section 4 of Rule 117 is applicable in this case. Hence, We shall instruct the prosecution to examine the Informations, before arraignment of the accused, in order to make the necessary corrections or revisions and to ensure that the informations are sufficient in form and substance to properly charge the accused.

[11] Records, p. 232.
[12] Jocelyn E. Cabo vs. Sandiganbayan, G.R. No. 169509, Ibid, p. 233.
[13] G.R. No. 180122, March 13, 2009, p. 232.
[14] Section 6, Rule 110 of the Rules on Criminal Procedure.

2. *The criminal action or liability has been extinguished*

The accused in his motion argues that all Informations should be dismissed since the alleged crimes have already prescribed pursuant to Act No. 3326[15], in relation to Section 9 of RA 3019 and Section 11 of RA 6731, and pursuant to Article 183, in relation to Article 90 of the RPC. The accused contends that the violation under RA 3019 shall prescribe after four (4) years from the commission of the acts or omissions complained of, while crimes punishable under RA 6731 prescribes after eight (8) years from commission of the offense. Perjury prescribes after ten (10) years pursuant to Article 90 of the RPC, which provides that crimes punishable by a correctional penalty shall prescribe in ten (10) years after discovery which is considered to be the date of the filing of the complaint.[16] Thus, the accused maintains that the crimes charged have prescribed.

On the contrary, the prosecution opposed this contention citing Section 11 of RA 3019[17]. In *Republic of the Philippines vs. Cojuangco, Jr. et al.*[18], the Supreme Court has settled the rule as to when prescriptive period for special penal laws shall begin to run. Since RA 3019 is a special penal law, the applicable law for the computation of the prescriptive period is Section 2 of Act No. 3326:

> **Sec. 2.** Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceeding for its investigation and punishment. x x x

From the foregoing, the prosecution asserts that the prescriptive period shall begin to run from the moment of discovery and the institution of judicial proceeding for its investigation. The prosecution considers that the prescriptive period is reckoned from the time of discovery which is the filing of the complaint by Berteni C. Causing on 23 October 2013[19].

The case of *Domingo vs. Sandiganbayan*[20] is relevant in resolving the issue of prescription, where the Court held that the following factors must be considered: (1) the period of prescription for the offense charged; (2) the time the period of prescription starts to run; and (3) the time the prescriptive period was interrupted. Section 11 of RA 3019 specifically provides: "All offenses punishable under this Act shall prescribe in ten years." This was later

[15] *An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run.*
[16] Records, p. 212.
[17] **Section 11. Prescription of offenses.** All offenses punishable under this Act shall prescribe in ten (10) years.
[18] G.R. No. 139930, June 26, 2012.
[19] Records, p 235.
[20] G.R. No. 109376, January 20, 2000.

amended in Batas Pambansa Blg. 195, approved on 16 March 1982, which increased the prescriptive period of the crime from ten years to fifteen years. Since the law alleged to have been violated, i.e., RA 3019, as amended, is a special law, the applicable rule in the computation of the prescriptive period is Section 2 of Act 3326.

Here, the date of commission for violations under RA 3019 has been specifically indicated in each Information and, thereby, the prescription shall begin to run from the date of commission of the violation and not from the time of discovery. Accordingly, the period of prescription should be reckoned from 2005, when the accused failed to make truthful and accurate declarations in his SALN and was only interrupted in 2013 when a complaint against the accused was filed in the Office of the Ombudsman. Accordingly, RA 6713 is also a special penal laws which must follow the provisions under RA 3326. Perjury, upon the other hand, is punishable by *arresto mayor* in its maximum period to *prision correccional* in its minimum period, or from four (4) months and one (1) day to two (2) years and four (4) months, which is correctional in nature, and prescribes in ten (10) years[21].

Since all the Informations were filed before the violations prescribe, the criminal liabilities of the accused still subsist. Hence, the accused's motion must fail.

3. *The inordinate delay in the filing of the information*

On the issue of unjustified delay in the filing of the Informations against him the accused invoked the rulings in *Tatad vs. Sandiganbayan*[22], *Duterte vs. Sandiganbayan*[23], *Cervantes vs. Sandiganbayan*[24], *People vs. Sandiganbayan, Hernani Perez, et al.*[25], and *Coscolluela vs. Sandiganbayan*[26]. In these cited cases, the long delay in the disposition of the case is vexatious and completely unjustified. Thereby, the accused alleged that the delay for almost three (3) years and five (5) months in the conduct of preliminary investigation constituted a violation of his right to speedy disposition of his case.

In its defense, the prosecution fervently opposed the issue on delay by asserting that it must not be premised on the number of days alone but rather on other standards as set forth in the case of *Braza vs. Sandiganbayan*[27], thus;

> The right to a speedy disposition of a case is deemed violated only when the proceedings are attended by

[21] Article 90, RPC.
[22] 159 SCRA 70; Records, p. 235.
[23] G.R. No. 130191, April 27, 1998; Ibid.
[24] G.R. No. 108595, May 18, 1999; Ibid.
[25] G.R. No. 188165, December 11, 2013; Records, p. 214.
[26] G.R. No. 191411, July 15, 2013; Ibid.
[27] G.R. No. 195032; Records p. 235.

> vexatious, capricious, and oppressive delay, or when unjustified postponements of the trial are asked for and secured, or when allowed to elapse without the party having his case tried.

Additionally, the prosecution raised the ruling in *Dela Pena vs. Sandiganbayan*[28] where the Supreme Court declared that the "the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1) the length of the delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay." Considering this rule, the accused has not shown that his rights were violated or prejudiced by unreasonable, arbitrary and oppressive delays. The prosecution is with the view that the delay in the conduct of preliminary investigation is not a ground for dismissal of the information.

On this ground, we rule against the accused. The accused's reliance on the cases of *Tatad*, *Duterte*, *Cervantes* and *Coscolluela* is misplaced.

In the case of *Tatad*[29], the facts cannot deny that political motivations played a vital role in activating and propelling the prosecutorial process of the case. In *Duterte*[30], the petitioners were merely asked to comment, and not file counter-affidavits, which is the procedure to follow in a preliminary investigation. After giving their explanation and after four long years of being in the dark, petitioners, naturally, had reason to assume that the charges against them had already been dismissed.

Article III, Section 16 of the Constitution provides that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies. Although this provision guarantees such right, due regard must be given to the circumstances of the case. As correctly raised by the prosecution, the doctrinal rule on this matter has been set forth in *Dela Pena vs. Sandiganbayan*. Applying the rule with the factual milieu of this case, We are of the position that there is no violation of the accused's right to speedy disposition of case for the following reasons: (1) the length of delay within the span of three years and five months does not automatically deprive the accused of his rights; (2) the preliminary investigation was not attended by vexatious, capricious, and oppressive delay; and (3) the accused only asserted the issue on delay after the charges reached this Court. It is undisputable that the delay in the proceedings was prejudicial to the accused, however the Constitution only guarantees protection from unreasonable delay.

While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It

---

[28] G.R. No. 144542, June 29, 2001.

[29] Supra, Note 21.

[30] Supra, Note 23.

secures rights to the accused, it is does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.[31]

4. *The cases are duplicitous*

Finally, on the fourth ground, the accused contends that filing multiple charges against him is an overkill and cannot be presumed to be regular. He invokes that he should be made to defend himself for only one set of criminal charge for one set of allegation. Thus all the charges should be dismissed based on the principle of duplicity of suits, due process, and justice.[32]

The prosecution, however, stressed that what constitutes as a ground for motion to quash is the duplicity of offenses in a single information. In these cases, accused is not faced with one Information charging more than one offense, but with more than one Information, each charging a different offense.[33]

We find that the ground raised by the accused for duplicity of suits is bereft of merit. Duplicity of charges mean a single complaint or information that charges more than one offense.[34] Thus, in *Loney vs. People*[35]:

> x x x this Court had ruled that a single act or incident might offend against two or more entirely distinct and unrelated provisions of law thus justifying the prosecution of the accused for more than one offense. The only limit to this rule is the Constitutional prohibition that no person shall be twice put in jeopardy of punishment for the same offense. In *People vs. Doriquez*, we held that two (or more) offenses arising from the same act are not the same:
>
> A single act may offend against two (or more) entirely distinct and unrelated provisions of law, and if one provision requires proof of an additional fact or element which the other does not, an acquittal or conviction or a dismissal of the information under one does not bar the prosecution under the other. Phrased elsewise, where two different laws (or articles of the same code) define two crimes, prior jeopardy as to one of

[31] Corpus vs. Sandiganbayan, G.R. No. 162214, November 11, 2004.
[32] Records, p.215.
[33] Ibid, p. 237.
[34] Soriano vs. People, GR 159517-18, June 30, 2009.
[35] G.R. No. 152644, February 10, 2006.

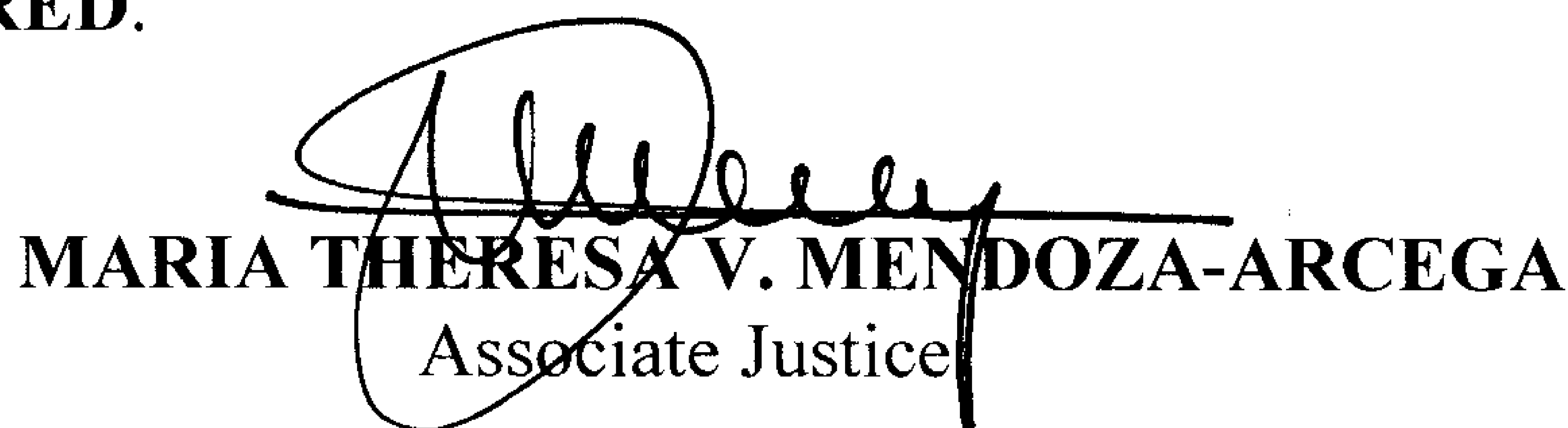
> them is no obstacle to a prosecution of the other, although both offenses arise from the same facts, if each crime involves some important act which is not an essential element of the other.

All matters being considered, We find no justification for the dismissal of any of the Informations filed against accused Hagedorn.

WHEREFORE, We find, and so hold, that the accused EDWARD SOLON HAGEDON's Urgent Omnibus Motion, dated 25 April 2017, is hereby **DENIED** for lack of merit.

However, in accordance with Rule 117, Section 4 of Revised Rules on Criminal Procedure, We **ORDER** the prosecution to examine the charges under SB-17-CRM-0498 to 0524 and make the necessary amendments to ensure that these Informations are sufficient in form and substance to properly charge the accused.

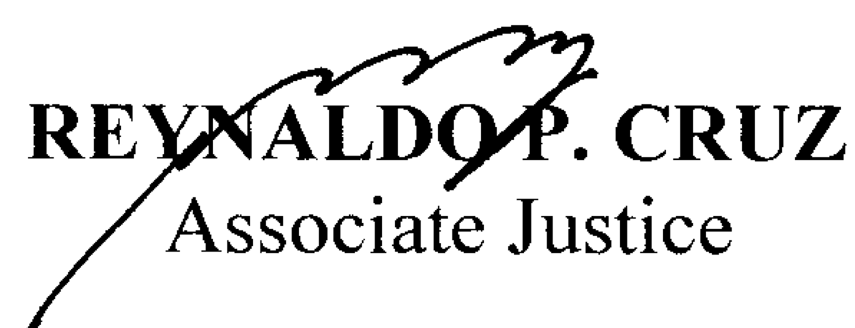
SO ORDERED.



MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:

RAFAEL R. LAGOS
Chairperson



REYNALDO P. CRUZ
Associate Justice